

## SUBCHAPTER 10 OVERLAY ZONES

**295-1001. Overlay Zone Purposes.** Overlay zones are intended to identify areas of the city that have unique qualities requiring special treatment or locations where special approaches to development may be warranted. Overlay zone designations are intended to protect these areas from incompatible development or to establish development standards which will ensure that new developments will not adversely affect surrounding areas. Overlay zones may add new standards over and above those of any base or underlying zoning district except a planned development district. They may also alter the standards of any base zoning district except a planned development district.

**295-1003. Neighborhood Conservation Overlay Zone (NC).** 1. **PURPOSE.** The neighborhood conservation overlay zone is intended to provide a vehicle to initiate and implement programs for the revitalization or conservation of older areas or districts possessing distinctive features, identity, or character worthy of retention and enhancement. A neighborhood conservation overlay zone takes effect through adoption of a neighborhood conservation plan and a set of guidelines that will facilitate maintenance and protection of the neighborhood character and the development of vacant or underused lots. Incompatible mixes of uses will be reduced or prohibited by adding limitations to the list of permitted, limited and special uses of the base district.

2. **PROCEDURES.** a. **Preparation of a Neighborhood Conservation Plan.** Prior to the city plan commission's consideration of a proposed neighborhood conservation overlay zone, a neighborhood conservation plan shall be completed by neighborhood property owners, the commissioner or both neighborhood property owners and the commissioner, and shall include the following:

a-1. A statement of purpose and an explanation of how the criteria of par. b are met.

a-2. An ordinance and map indicating the boundaries of all lots in the proposed neighborhood conservation overlay zone and the base zoning districts contained within the proposed overlay zone.

a-3. A neighborhood conservation plan consisting of a map and such other textual and graphic material as may be necessary to indicate land uses, building types and features, site development requirements, signing, circulation, off-street parking and modifications to base district standards.

b. **Plan Criteria.** The neighborhood conservation plan shall demonstrate that the neighborhood conservation overlay zone meets one or more of the following criteria:

b-1. Distinctive building features, such as period of construction, style, size, scale, detailing, mass, color and material.

b-2. Distinctive features or articles associated with the streetscape, such as light fixtures and devices, signs, benches, curb markers, kiosks and bollards.

b-3. Distinctive site planning and natural features, such as lot platting, street layout, setbacks, alleyways, sidewalks, creekbeds, parks and gardens.

b-4. Distinctive land uses or land use patterns, such as mixed or unique uses or activities, not permitted by base district without modification.

c. **Creation.** Creation of a neighborhood conservation overlay zone shall be by amendment to the zoning map, pursuant to s. 295-307, and shall include common council approval of a neighborhood conservation plan at the same time the map amendment is adopted. The plan shall establish standards and conditions for development consistent with the purposes of the plan and may include changes in land use controls and development standards.

d. **Zoning Map Designator.** Each neighborhood conservation overlay zone shall be shown on the zoning map by an "NC" designator and an appropriate number.

e. **Limitation on Permit Issuance.** No building or grading permit for a project within a neighborhood conservation overlay zone shall be issued by the commissioner unless the use, alteration or construction meets the standards set forth in, or prepared pursuant to, sub. 3.

f. **Amendment of Zone Boundaries.** Amendment of the boundaries of a neighborhood conservation overlay zone shall only be initiated by a motion of the common council or by a petition submitted to the common council and signed by owners of 50% or more of the area of all land included in the zone. Following passage of the common council motion or the department's receipt of a petition, the proposed boundary amendment shall be considered by the plan commission and common council in accordance with the zoning map amendment procedure in s. 295-307-3.

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g. Appeals. An appeal of denial of a permit based on failure to meet performance criteria or development or design standards of a neighborhood conservation overlay zone shall be submitted, along with the fee listed in s. 200-33, to the commission and considered according to the procedures and findings of s. 295-311-7. An appeal relating to application of the regulations of the base or underlying zoning district that were not amended by the overlay zone shall be submitted to the board in accordance with s. 295-311.

3. STANDARDS. a. Size. Each neighborhood conservation overlay zone shall include a minimum contiguous area of 2 acres, including intervening streets and alleys, and shall contain at least 3 separate parcels.

b. Uses. Provisions for specific uses included in any base zoning district except a planned development district may be modified by the neighborhood conservation plan to accommodate unique or mixed uses serving the neighborhood or to restrict uses which adversely affect the neighborhood.

c. Performance Criteria. Performance criteria for permitted, limited or special uses may be modified by the neighborhood conservation plan.

d. Development and Design Standards. Development and design standards may be created to enhance the neighborhood's identity and character.

**295-1005. Interim Study Overlay Zone (IS).** 1. PURPOSE. The interim study overlay zone is intended to allow discretionary review of development proposals in areas where changes in zoning provisions are contemplated or under study. This zone will allow new developments to proceed through a review process that will insure that the development is compatible with the city's comprehensive plan rather than establishing a moratorium during a time when new or modified zoning provisions are being put into place.

2. PROCEDURES. a. Creation. Creation of an interim study overlay zone shall be by amendment to the zoning map, pursuant to s. 295-307, and may occur only in a location for which an area-specific comprehensive plan element has been adopted by the city plan commission.

b. Study Plan. Prior to approving the establishment of an interim study overlay zone, the city plan commission and the common council shall approve, by resolution, a study plan that identifies regulatory problems and states land use and development issues to be resolved for the area proposed for reclassification.

c. Zoning Map Designator. Each interim study overlay zone shall be shown on the zoning map with an "IS" designator and an appropriate number.

d. Special Use Permit Required. Upon the establishment of an interim study overlay zone, all uses listed in the existing or proposed district as permitted, limited or special uses shall be special uses for which approval of special use permits by the board of zoning appeals is required. In addition to the findings required for special uses, the board shall find that a proposed use will not conflict with or exacerbate the land use and development issues identified by the study plan approved for the area at the time the interim study overlay zone was created.

e. Time Limits. An ordinance establishing an interim study overlay zone shall contain a provision terminating the interim study overlay zone designation at a specified time, but not more than 2 years from its effective date. An ordinance establishing an interim study overlay zone may be amended, reenacted, or superseded by a zoning map amendment adopted as prescribed by s. 295-307.

f. Resubmittal of Development Proposals. Notwithstanding the provisions of s. 295-307, a special use permit application that has been denied, or approved subject to conditions unacceptable to the applicant, may be resubmitted on or after the effective date of a zoning map amendment superseding an interim study overlay zone designation.

g. Amendment of Zone Boundaries. Amendment of the boundaries of an interim study overlay zone shall only be initiated by a motion of the common council or by a petition submitted to the common council and signed by owners of 50% or more of the area of all land included in the zone. Following passage of the common council motion or the department's receipt of a petition, the proposed boundary amendment shall be considered by the plan commission and common council in accordance with the zoning map amendment procedure in s. 295-307-3.

**295-1007. Development Incentive Overlay Zone (DIZ)** 1. PURPOSES. The specific purposes of the development incentive overlay zone are to:

a. Provide opportunities to create new development projects which are more compatible with existing development on adjacent sites.

- b. Create a pedestrian-friendly environment in both design and scale.
- c. Encourage creativity, variety and excellence in project design and layout.
- d. Utilize a development review and approval process that meets these purposes without causing undue delays.

**2. PROCEDURES.** a. Creation. Creation of a development incentive overlay zone shall be by amendment to the zoning map, pursuant to s. 295-307.

b. Performance Standards. Upon receipt of an application for creation of a development incentive overlay zone, the commissioner shall prepare performance standards for review and approval by the common council at the same time the map amendment is adopted.

c. Zoning Map Designator. Each development incentive overlay zone shall be shown on the zoning map by a "DIZ" designator and an appropriate number.

e. Limitation on Permit Issuance. No building or grading permit for a project within a development incentive overlay zone shall be issued by the commissioner until development plan approval has been granted or specified conditions have been met. The development of single-family or 2-family dwellings shall be exempt from this requirement.

f. Amendment of Zone Boundaries. Amendment of the boundaries of a development incentive overlay zone shall only be initiated by a motion of the common council or by a petition submitted to the common council, signed by owners of 50% or more of the area of all land included in the zone and accompanied by the affidavit required by s. 295-313. Following passage of the common council motion or the department's receipt of a petition, the proposed boundary amendment shall be considered by the plan commission and common council in accordance with the zoning map amendment procedure in s. 295-307-3.

g. Appeals. An appeal of denial of a permit based on failure to meet the performance standards of a development incentive overlay zone shall be submitted, along with the fee listed in s. 200-33, to the commission and considered according to the procedures and findings of s. 295-311-7. An appeal relating to application of the regulations of the base or underlying zoning district that were not amended by the overlay zone shall be submitted to the board in accordance with s. 295-311.

**3. STANDARDS.** a. Performance Standards. The commissioner shall prepare performance standards applicable to each development incentive overlay zone. Such performance standards may include, but shall not be limited to, design requirements, signage, fencing and landscaping, buffers, open space, pedestrian and vehicular access, and building height, bulk, placement, materials, façade treatment and transparency. These standards, along with the required findings specified in par. b, shall be used as the basis for review and approval of individual detailed development plans. These standards shall supercede the standards of the underlying district; provided, however, that where the performance standards do not specify new standards, those of the underlying district shall be maintained. The commissioner shall also include, within the performance standards, modifications to the lists of permitted, limited, and special uses in the underlying zoning district. Such modifications may include a list of all uses which will be permitted and which will be prohibited.

b. Required Findings. Prior to the approval or conditional approval of any site work within a development incentive overlay zone, the city plan commission shall find that the development plan:

b-1. Is consistent with the city's comprehensive plan.

b-2. Is consistent with the performance standards of the zone.

b-3. Will not result in development of the site in such a way that its use would be detrimental to the health, safety, morals, comfort and general welfare of the persons residing, working, shopping or recreating in the neighborhood, or be injurious or detrimental to the property and improvements in the neighborhood or to the general welfare of the city.

**295-1009. Site Plan Review Overlay Zone (SP).** 1. PURPOSE. This overlay zone adds design and building placement standards over and above those required by the base district. These standards are intended to provide improved buffers, pedestrian and vehicular access, and neighborhood compatibility and transition.

**2. PROCEDURES.** a. Creation. Creation of a site plan review overlay zone shall be by amendment to the zoning map, pursuant to s. 295-307.

b. Design Standards. Upon receipt of an application for creation of a site plan review overlay zone, the commissioner shall prepare design standards for review and approval by the common council at the same time the map amendment is adopted.

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c. Zoning Map Designator. Each site plan review overlay zone shall be shown on the zoning map by a "SP" designator and an appropriate number.

d. Development Plan Review. Once the site plan review overlay zone has been established, plans for all site work within the zone shall be submitted to the city plan commission for its approval. The approved design standards shall be used by the commission in its review of development plans within the zone.

e. Amendment of Zone Boundaries. Amendment of the boundaries of a site plan review overlay zone shall only be initiated by a motion of the common council or by a petition submitted to the common council and signed by owners of 50% or more of the area of all land included in the zone. Following passage of the common council motion or the department's receipt of a petition, the proposed boundary amendment shall be considered by the plan commission and common council in accordance with the zoning map amendment procedure in s. 295-307-3.

f. Appeals. An appeal of denial of a permit based on failure to meet the design standards of a site plan review overlay zone shall be submitted, along with the fee listed in s. 200-33, to the commission and considered according to the procedures and findings of s. 295-311-7. An appeal relating to application of the regulations of the base or underlying zoning district that were not amended by the overlay zone shall be submitted to the board in accordance with s. 295-311.

3. STANDARDS. a. Design Standards. The commissioner shall prepare design standards applicable to each site plan review overlay zone. Such design standards may include, but shall not be limited to: signage; fencing and landscaping; buffers; open space; pedestrian and vehicular access; building height, bulk, placement, façade treatment, materials and transparency. These standards, along with the required findings specified in par. b, shall be used as the basis for review and approval of individual detailed development plans. These standards shall supercede the standards of the underlying district; provided, however, that where the design standards do not specify new standards, those of the underlying district shall be followed.

b. Required Findings. Prior to the approval or conditional approval of any site work within a site plan review overlay zone, the city plan commission shall find that the development plan for such site work:

b-1. Is consistent with the city's comprehensive plan.

b-2. Is consistent with the design standards of the zone.

b-3. Will not result in development of the site in such a way that its use would be detrimental to the health, safety, morals, comfort and general welfare of the persons residing, working, shopping or recreating in the neighborhood, or be injurious or detrimental to the property and improvements in the neighborhood or to the general welfare of the city.

**295-1011. Floodplain Overlay Zones (FW, FF, FSD) 1. FINDING OF FACT.** The common council finds that uncontrolled development and use of the floodplains and rivers of the city of Milwaukee would impair the public health, safety, convenience, general welfare and tax base of the city.

2. PURPOSES. The purposes of the flood plain overlay zones are to identify flood-prone areas in the city with respect to establishing corrective and preventive measures to reduce flood damage and alerting the public to the flood-related hazards it may face in such areas. The regional floodplain areas are divided into 3 floodplain overlay zones, floodway, flood fringe and flood storage. Floodways are characterized by deeper, faster-moving water, while flood fringe areas typically contain shallow, slow-moving water. Flood storage areas are those floodplain areas where storage of flood waters has been taken into account during analysis in reducing the regional flood discharge. The purpose of the floodway overlay zone is to insure that the flow of water is not impeded during periodic flooding, and that flood heights upstream are not increased. The purpose of the flood fringe overlay zone is to allow limited development so long as adequate floodproofing measures are followed, flood storage areas are not reduced during periodic flooding and flood heights are not increased upstream. The purpose of the flood storage overlay zone is to reduce the regional flood discharge. In addition, the provisions of this section are intended to regulate floodplain development to:

a. Protect life, health and property.

b. Minimize expenditures of public funds for flood control projects.

c. Minimize rescue and relief efforts undertaken at the expense of taxpayers.

d. Minimize business interruptions and other economic disruptions.

e. Minimize damage to public facilities in the floodplain.

- f. Minimize the occurrence of future flood blight areas in the floodplain.
- g. Discourage the victimization of unwary land and home buyers.
- h. Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners.
- i. Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

**3. AREAS TO BE REGULATED.** This section regulates all areas that would be covered by the base flood or regional flood. Base flood elevations shall be derived from flood profiles in the flood insurance study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are the areas identified as "A-Zones" on the flood insurance rate map. Any development or use within the areas regulated by this section shall be in compliance with the provisions of this section and other applicable local, state and federal regulations.

**4. ANNEXED AREAS.** The floodplain zoning provisions assigned to land being annexed to the city of Milwaukee in effect on the date of annexation shall remain in effect and shall be enforced by the city for all annexed areas until the city adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code, as amended, and the national flood insurance program. These annexed lands are described on the city's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the offices of the department. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.

**5. ABROGATION AND GREATER RESTRICTIONS.** The provisions of this section are not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this section imposes greater restrictions, the provisions of this section shall prevail.

**6. INTERPRETATION.** In their interpretation and application, the provisions of this section are the minimum requirements liberally construed in favor of the city and are not a limitation or repeal of any other powers granted by the Wisconsin statutes. If a provision of this section, required by ch. NR 116, Wis. Adm. Code, as amended, is unclear, the provision shall be interpreted in light of the standards in effect on December 30, 2005, or in effect on the date of the most recent amendment to this section.

**7. PROCEDURES.** a. Creation or Revision. Creation of, or revisions to, floodplain overlay zone boundaries or regulations shall be by amendment to the zoning map or zoning code text, pursuant to s. 295-307. Such an amendment shall not be final until approved by both the Wisconsin department of natural resources and the federal emergency management agency. In the case of a floodplain overlay zone boundary change, the federal emergency management agency will determine if an official letter of map amendment or a letter of map amendment based on fill will be required. These letters are waivers of federal insurance requirements and do not fulfill minimum requirements for removing land from the floodplain. To remove land from a floodplain, the requirements of sub. 17 shall be met.

b. Amendment. Actions which require an amendment of a floodplain overlay zone boundary include, but shall not be limited to:

b-1. Any change to the official floodplain zoning map, including the floodway line or the boundary of any floodplain area.

b-2. Correction of discrepancies between water surface profiles and the floodplain zoning map.

b-3. Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.

b-4. Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.

b-5. Any upgrade to the text of this section required by s. NR 116.05, Wis. Adm. Code, as amended, otherwise required by law or for changes by the city.

b-6. All channel relocations or changes to the maps to alter floodway lines or to remove an area from the floodway or flood fringe that is based on a base flood elevation from a flood insurance rate map. Such relocations or changes also require prior approval of the federal emergency management agency.

c. Other Approvals. c-1. No amendment shall become effective until it is reviewed and approved by the Wisconsin department of natural resources.

c-2. Any person petitioning for a map amendment that obstructs flow, by increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements

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from all adversely affected property owners and notify local units of government before the amendment can be approved by the common council.

d. Zoning Map Designators. Each floodplain overlay zone shall be shown on the zoning map by an "FW" designator indicating a floodway overlay zone, an "FF" designator indicating a flood fringe overlay zone or an "FSD" designator indicating a flood storage overlay zone.

e. Official Maps and Revisions. e-1. Official Maps Adopted. The boundaries of all floodplain overlay zones are designated as floodplains or A-Zones on the following maps and the revisions in the city of Milwaukee floodplain appendix:

e-1-a. Milwaukee county flood insurance study, dated September 26, 2008, volume numbers 55079CV001A, 55079CV002A, 55079CV003A, 55079CV004A and 55079CV005A.

e-1-b. Milwaukee County flood insurance rate map panel numbers 55079CIND0A, 55079C0008E, 55079C0012E, 55079C0014E, 55079C0016E, 55079C0017E, 55079C0018E, 55079C0019E, 55079C0036E, 55079C0037E, 55079C0038E, 55079C0052E, 55079C0056E, 55079C0058E, 55079C0066E, 55079C0067E, 55079C0068E, 55079C0069E, 55079C0076E, 55079C0077E, 55079C0081E, 55079C0082E, 55079C0084E, 55079C0086E, 55079C0087E, 55079C0089E, 55079C0091E, 55079C0092E, 55079C0093E, 55079C0094E, 55079C0103E, 55079C0111E, 55079C0131E, 55079C0132E, 55079C0151E, 55079C0152E, 55079C0153E, 55079C0154E, 55079C0156E, 55079C0157E, 55079C0158E, 55079C0159E, 55079C0162E, 55079C0166E, 55079C0167E and 55079C0176E dated September 26, 2008, with corresponding profiles that are based on the flood insurance study.

e-1-c. Waukesha County flood insurance rate map panel numbers 55133C0114F and 55133C0227F dated November 19, 2008, with corresponding profiles that are based on the flood insurance study.

e-2. Revision of Maps. Any change to the base flood elevations in the flood insurance study or on the flood insurance rate map shall be reviewed and approved by the Wisconsin department of natural resources and the federal emergency management agency before it is effective. No changes to regional flood elevations on non-federal emergency management agency maps shall be effective until approved by the department of natural resources.

e-3. Location of Maps. The maps listed in subd. 1 are on file in the office of the commissioner.

e-4. More Than One Map or Revision. Whenever more than one map or revision is referenced, the most restrictive information shall apply.

f. Variances. Pursuant to s. 295-311-4-f-3-a, the board of zoning appeals shall take no action on any application for a variance in a floodplain overlay zone for 30 days following the date of receipt of the application or until the Wisconsin department of natural resources has made its recommendation, whichever is sooner.

**8. STANDARDS APPLICABLE TO ALL FLOODPLAIN OVERLAY ZONES.** a. Except as allowed in par. c, no floodplain development shall result in either of the following:

a-1. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height.

a-2. Increase regional flood height due to floodplain storage area lost by an amount equal to or exceeding 0.01 foot.

b. The commissioner shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted flood insurance rate map or other adopted map, unless the provisions of par. c are met.

c. Obstructions or increases equal to or greater than 0.01 foot with respect to base flood elevations shown on the officially adopted flood insurance rate map or other adopted map may only be permitted if amendments are made to this section, the official floodplain zoning map, floodway lines and water surface profiles, in accordance with sub. 7. Any such alterations shall be reviewed and approved by the federal emergency management agency and the Wisconsin department of natural resources.

d. Development shall not adversely affect channels, floodways or banks of any tributaries of the city's watercourses, or land outside of the floodplain.

e. No river or stream shall be altered or relocated until a floodplain overlay zone zoning map amendment is approved by the common council in accord with s. 295-307.

f. No permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the commissioner has notified, in writing, all adjacent municipalities and the regional offices of the Wisconsin department of natural resources and the federal emergency management agency, and has required the applicant to secure all necessary state and federal permits. The flood-carrying capacity of any altered or relocated watercourse shall be maintained. As soon as is practicable, but not later than 6 months after the date of the watercourse alteration or relocation, the commissioner shall notify the federal emergency management agency of the changes by submitting appropriate technical or scientific data in accordance with national flood insurance program guidelines that shall be used to revise the flood insurance rate map, risk premium rates and floodplain management regulations as required.

9. STANDARDS FOR DEVELOPMENT IN THE FLOODWAY OVERLAY ZONE. a. Permitted Uses. The following open space uses are permitted uses in the floodway overlay zone if they are not prohibited by any other provision of this code, meet the standards of pars. b to f, and all permits or certificates have been issued according to subs. 12 and 13:

a-1. Agricultural uses, such as farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.

a-2. Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips

a-3. Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas, and hiking and horseback riding trails, subject to the fill limitations of par. e.

a-4. Uses or structures accessory to open space uses or classified as historic structures, that comply with pars. b to f.

a-5. Extraction of sand, gravel or other materials, subject to par. e.

a-6. Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids, river crossings of transmission lines and pipelines that are in compliance with chs. 30 and 31, Wis. Stats., as amended.

a-7. Public utilities, streets and bridges that are in compliance with par. e.

a-8. Normal earth-grading activities to permit utilization of the lands for open space, outdoor recreation, yard, parking and similar uses, provided the applicant can demonstrate that the water-carrying and storage capacity of the floodplain will not decrease as a result of the earth-grading activities.

b. General Development Standards.

b-1. Any development in a floodway overlay zone shall comply with sub. 8 and have a low flood damage potential.

b-2. Applicants shall provide either of the following data to determine the effects of the proposal according to sub. 8:

b-2-a. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow.

b-2-b. An analysis calculating the effects of the proposal on regional flood height.

b-3. The commissioner shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more based on the data submitted pursuant to subd. 2.

b-4. Parking and loading areas may be at elevations lower than the flood protection elevation. However, no such areas in general use by the public may be inundated to a depth greater than 2 feet or subject to flood velocities greater than 2 feet per second. Such areas may be located at lower elevations if an adequate warning system exists to protect life and property.

c. Structures. A structure accessory to a permanent open space use or functionally dependent on a waterfront location may be allowed by permit if the commissioner finds that the structure will comply with all of the following criteria:

c-1. The structure will not be designed for human habitation and will not have a high flood damage potential.

c-2. The structure will be anchored to resist flotation, collapse and lateral movement.

c-3. The portions of the structure located below the regional flood elevation will be constructed of flood-resistant materials.

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- c-4. The structure will be designed to allow for the automatic entry of flood waters.
- c-5. Mechanical and utility equipment will be elevated to or above, or floodproofed to or above, the regional flood elevation.
- c-6. The structure will not obstruct the flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
- c-7. Use of the structure will be limited to parking or limited storage.
- d. Public Utilities, Streets and Bridges. Public utilities, streets and bridges may be allowed by permit if the commissioner finds that the following conditions will be met:
  - d-1. Adequate floodproofing measures will be provided to the flood protection elevation.
  - d-2. The facilities will be constructed in compliance with the development standards of sub. 8.
- e. Fills or Deposition of Materials. Fills or deposition of materials may be allowed by permit if the commissioner finds that the work to be performed will meet all of the following conditions.
  - e-1. The work will be in compliance with the provisions of sub. 8.
  - e-2. No material will be deposited in the navigable channel unless a permit has been issued by the Wisconsin department of natural resources pursuant to ch. 30, Wis. Stats., as amended, and a permit has been issued pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344, if applicable.
  - e-3. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading.
  - e-4. The fill is not classified as a solid or hazardous material.
- f. Prohibited Uses. All uses not listed in par. a are prohibited uses in the floodway overlay zone, including but not limited to:
  - f-1. Habitable structures, structures with high flood damage potential and structures not associated with permanent open-space uses.
  - f-2. Storage of materials that are buoyant, flammable, explosive or injurious to property, water quality or human, animal, plant, fish or other aquatic life.
  - f-3. Uses not in harmony with, or detrimental to, uses permitted in adjoining zoning districts or overlay zones.
  - f-4. Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Wisconsin department of natural resources-approved campgrounds that meet applicable city code provisions and ch. Comm 83, Wis. Adm. Code, as amended.
  - f-5. Any public or private wells which are used to obtain potable water, except those for recreational areas that meet applicable city code provisions and the requirements of chs. NR 811 and NR 812, Wis. Adm. Code, as amended.
  - f-6. Any solid or hazardous waste disposal sites.
  - f-7. Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code, as amended.
  - f-8. Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.
  - f-9. Parking areas for new or used motor vehicle sales or storage.
- 10. STANDARDS FOR DEVELOPMENT IN THE FLOOD FRINGE OVERLAY ZONE.**
  - a. Permitted Uses. Any structure, land use or development is permitted in the flood fringe overlay zone if it meets the standards of sub. 8 and pars. b to o, is not prohibited elsewhere in this section or this code, and all permits or certificates specified in subs. 12 and 13 have been issued.
  - b. Residential Use Regulations. Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered or moved into a flood fringe overlay zone shall meet or exceed the following standards:
    - b-1. The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be 2 feet or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The Wisconsin department of natural resources may authorize other floodproofing measures if the elevations of existing streets or sewer lines make compliance impractical and the board grants a variance.



b-2. The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway shall be permitted below the regional flood elevation.

b-3. Contiguous dryland access shall be provided from the structure to land outside of the floodplain, except as provided in subd. 4.

b-4. In a development where existing street or sewer line elevations make compliance with subd. 3 impractical, the commissioner may permit new development and substantial improvements where access roads are at or below the regional flood elevation if the commissioner finds either of the following to be true:

b-4-a. The commissioner has received written assurance from the police and fire departments that rescue and relief will be provided to the structure by wheeled vehicles during a regional flood event.

b-4-b. The city has a natural disaster plan approved by Wisconsin emergency management and the Wisconsin department of natural resources.

b-5. The floodplain overlay zone boundary shall be amended pursuant to sub. 7-b to provide for removal of the land on which the habitable structure is located in accordance with sub. 17.

c. Accessory Structures. c-1. Except as provided in subd. 2, an accessory structure which is not connected to a principal structure shall be constructed with its lowest floor at or above the regional flood elevation.

c-2. An accessory structure which is not connected to the principal structure, less than 600 square feet in size and valued at less than \$10,000 may be constructed with its lowest floor no more than 2 feet below the regional flood elevation provided that it is subject to flood velocities of no more than 2 feet per second and that it meets all of the provisions of par. g and sub. 9-c.

d. Commercial and Institutional Uses. Any commercial or institutional structure which is erected, altered or moved into a flood fringe overlay zone shall meet the requirements of par. b. Subject to the requirements of pars. f and o, storage yards, surface parking lots and similar uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

e. Manufacturing and Industrial Uses. Any manufacturing or industrial structure which is erected, altered or moved into a flood fringe overlay zone shall be protected to the flood protection elevation using fill, levees, floodwalls or other floodproofing measures in sub. 14. Subject to the requirements of pars. f and o, storage yards, surface parking lots and similar uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

f. Storage of Materials. Materials that are buoyant, flammable, explosive or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with sub. 14. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

g. Public Utilities, Streets and Bridges. All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans. When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of, and substantial improvements to, such facilities shall only be permitted if they are floodproofed in compliance with sub. 14 to the flood protection elevation. Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

h. Sewage Systems. All on-site sewage disposal systems shall be floodproofed, in accordance with sub. 14, to the flood protection elevation and shall comply with all applicable city code provisions and the provisions of ch. Comm 83, Wis. Adm. Code, as amended.

i. Wells. All wells shall be floodproofed, in accordance with sub. 14, to the flood protection elevation and shall comply with the provisions of chs. NR 811 and NR 812, Wis. Adm. Code, as amended.

j. Solid Waste Disposal Sites. Disposal of solid or hazardous waste is prohibited in flood fringe overlay zones.

k. Deposition of Materials. Any deposited material shall meet all applicable provisions of this section.

L. Manufactured Homes. L-1. Emergency Preparedness. The owner or operator of any manufactured home park or subdivision in a flood fringe overlay zone shall provide adequate surface drainage to minimize flood damage, and shall prepare and submit to the fire chief an evacuation plan indicating vehicular access and escape routes.

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L-2. Existing Manufactured Home Parks. In an existing manufactured home park, all new homes, replacement homes on existing pads and substantially improved homes shall meet both of the following requirements:

L-2-a. The home shall have the lowest floor level elevated to the flood protection elevation.

L-2-b. The home shall be anchored so it does not float, collapse or move laterally during a flood.

L-3. Homes Outside Existing Parks. Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement or substantially improved manufactured homes shall meet the residential development standards of par. b.

m. Mobile Recreational Vehicles. Any mobile recreational vehicle that is on-site in a flood fringe overlay zone for 180 or more consecutive days and is not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in par. L-2. A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices, and has no permanently attached additions.

n. Grading Activities. Normal earth-grading activities to permit utilization of the lands for open space, outdoor recreation, yards, parking and similar uses shall be permitted in the flood fringe overlay zone, provided the applicant can demonstrate that the water-carrying and storage capacity of the floodplain will not decrease as a result of the earth-grading activities.

o. Parking and Loading Areas. o-1. Parking and loading areas may be at elevations lower than the flood protection elevation. However, no such areas in general use by the public may be inundated to a depth greater than 2 feet or subject to flood velocities greater than 2 feet per second. Such areas may be located at lower elevations if an adequate warning system exists to protect life and property.

o-2. Parking areas for new or used motor vehicle sales or storage shall be prohibited.

### 11. STANDARDS FOR DEVELOPMENT IN THE FLOOD STORAGE OVERLAY ZONE.

a. Permitted Uses. Any use or development which occurs in a flood storage overlay zone shall meet the standards of sub. 8 and all applicable requirements of sub. 10.

b. Other Development Standards. b-1. Development in a flood storage overlay zone shall not cause an increase greater than or equal to 0.01 foot in the height of the regional flood.

b-2. Except as provided in subd. 4, no development which removes flood storage volume shall be allowed unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation is provided in the immediate area of the proposed development to compensate for the volume of storage that is lost. Excavation below the groundwater table shall not be considered as providing an equal volume of storage.

b-3. Except as provided in subd. 4, if compensatory storage cannot be provided, the area shall not be developed unless the entire area in the flood storage overlay zone on this waterway is rezoned to the flood fringe overlay zone. This shall include a revision to the floodplain study and map done for the waterway to revert to the higher regional flood discharge calculated without floodplain storage, per sub. 7-b.

b-4. If the 100-year flood profile and floodplain boundary are adjusted through implementation of a flood mitigation system plan that is designed to reduce the flood hazard to existing buildings and to not create an increase of greater than or equal to 0.01 foot in the 100-year flood profile at locations upstream or downstream of the project reach, those portions of the flood storage overlay zone that would be removed from the floodplain through implementation of the plan can be developed, or redeveloped, even if an equal volume of compensatory storage is not provided. In such cases, the flood storage overlay zone shall remain in effect along the waterway. For such an adjustment to the flood storage overlay zone, the flood mitigation system plan, including engineering data and calculations showing the new flood profile, shall be submitted to, and approved by, the Wisconsin department of natural resources and the federal emergency management agency, and the zoning map shall be revised to reflect the changed flood storage overlay zone boundary in accordance with the procedures of s. 295-307 and sub. 7.

b-5. No area shall be removed from the flood storage overlay zone unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside of the floodplain.

12. PERMITS REQUIRED. a. General Requirements. It shall be unlawful to use any structure or land, or to erect, alter, relocate, extend or substantially improve any structure or sewer or water

facilities, prior to the issuance of a permit. Furthermore, it shall be the responsibility of the permit applicant to secure all necessary permits required by local, state or federal agencies, including but not limited to:

- a-1. Any permit, certificate or license, including any floodplain fill permit, in accordance with ch. 200.
- a-2. Development which requires a permit from the Wisconsin department of natural resources under chs. 30 and 31, Wis. Stats., as amended, such as docks, piers, wharves, bridges, culverts, dams and navigational aids. Such development may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, base flood elevations established in the flood insurance study or other data from the officially-adopted flood insurance rate map, other floodplain zoning maps or this section are made according to sub. 7.

- a-3. Wetland fill permits, in accordance with s. 404 of the federal water pollution control act.

- b. Permit Application; General Information. Information on the application for a permit required under this section shall include:

- b-1. The name and address of the applicant, property owner and contractor.
- b-2. A legal description of the property, along with a description of the proposed use and whether the project will involve new construction, alteration, relocation, extension or substantial improvement of a structure.
- c. Site Development Plan. A site plan drawn to scale shall be submitted along with the permit application. The site plan shall contain:

- c-1. The location, dimensions, area and elevation of the lot.
- c-2. The location of the ordinary highwater mark of any abutting navigable waterways.
- c-3. The location of any structures, with distances measured from the lot lines and street center lines.
- c-4. The location of any existing or proposed on-site sewage system or private water supply system.
- c-5. The location and elevation of existing and future access roads.
- c-6. The location of floodplain and floodway limits as determined from the official floodplain zoning maps.

- c-7. The elevation of the lowest floor of any proposed building and any fill, using national geodetic vertical datum.

- c-8. Data sufficient to determine the regional flood elevation, in national geodetic vertical datum, at the location of the development and to determine whether the requirements of sub. 9 or 10, as applicable, are met.

- c-9. Data sufficient to determine whether the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge in violation of sub. 8. This may include any of the information described in sub. 9-b-2.

- d. Data Requirements to Analyze Developments. d-1. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in ch. 236, Wis. Stats., as amended, and for other proposed developments exceeding 5 acres in area or where the estimated cost exceeds \$125,000. The applicant shall provide:

- d-1-a. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity.

- d-1-b. A map showing the location and details of vehicular access to lands outside the floodplain.

- d-1-c. A surface drainage plan showing how flood damage will be minimized.

- d-2. For purposes of determining whether compliance with subd. 1 is required, the estimated cost of a proposed development shall be considered to include costs of structural development, landscaping, access and road development, utilities and other pertinent items, but need not include land costs.

- e. Expiration; Renewal; Lapse of Permits. All permits issued under the authority of this section shall expire and may be renewed in accordance with the provisions of s. 200-30.2. Permits shall lapse and be void in accordance with the provisions of s. 200-30.

**13. CERTIFICATE OF COMPLIANCE.** No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied,

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until a certificate of compliance is issued by the commissioner, except where no permit is required, subject to the following provisions:

- a. The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this section.
- b. Application for such certificate shall be concurrent with the application for a permit.
- c. If applicable code provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed.
- d. The applicant shall submit a certification signed by a registered professional engineer or registered land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or registered architect that those measures meet the requirements of sub. 14.

**14. FLOODPROOFING.** a. Standards. Floodproofing measures shall be designed to:

- a-1. Withstand flood pressures, depths, velocities, uplift and impact forces, and other regional flood factors.
- a-2. Protect structures to the flood protection elevation.
- a-3. Anchor structures to foundations to resist flotation and lateral movement.
- a-4. Insure that structural walls and floors are watertight to the flood protection elevation and that the interior of the structure remains completely dry during flooding without human intervention.
- b. Floodproofing Measures. Acceptable floodproofing measures include, but are not limited to:
  - b-1. Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris.
  - b-2. Adding mass or weight to prevent flotation.
  - b-3. Placing essential utilities above the flood protection elevation.
  - b-4. Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.
  - b-5. Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.
  - b-6. Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

**15. ADMINISTRATION.** The commissioner is authorized to administer the provisions of this section and shall have the following duties and powers:

- a. Advise applicants of the provisions of this section, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
- b. Issue permits, inspect properties for compliance with provisions of this section and issue certificates of compliance where appropriate.
- c. Request the commissioner of neighborhood services to inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
- d. Keep records of all official actions, such as:
  - d-1. All permits issued, inspections made, and work approved.
  - d-2. Documentation of certified lowest floor and regional flood elevations for floodplain development.
  - d-3. Records of water surface profiles, floodplain zoning maps and ordinances, and nonconforming uses and structures, including changes, appeals, variances and amendments.
  - d-4. All substantial damage assessment reports for floodplain structures.
- e. Submit the following items to the Wisconsin department of natural resources regional office:
  - e-1. At least 10 days prior to any public hearing on a proposed floodplain zoning map or text amendment or a variance or special use permit request in a floodplain overlay zone, a copy of the notice of the public hearing.
  - e-2. Within 10 days of the decision, a copy of any board decision on a variance request or an appeal for a map or text interpretation.

e-3. Within 10 days of passage and publication of any ordinance amending the text of this section or amending the zoning map in a manner adding, deleting or modifying a floodplain overlay zone, a copy of the ordinance amending the text or map.

e-4. Copies of any case-by-case analyses and any other information required by the department of natural resources, including an annual summary of the number and types of floodplain zoning actions taken.

e-5. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

f. Request the commissioner of neighborhood services to investigate, prepare reports, and report violations of this section, and to remedy the violations in accordance with the provisions of s. 295-309. Copies of the reports and documentation of the enforcement actions shall be sent to the commissioner of city development and the Wisconsin department of natural resources regional office.

g. Submit copies of amendments to the text of this section and map amendments adding, deleting or modifying a floodplain overlay zone, as well as biennial reports of those amendments, to the federal emergency management agency regional office.

h. Provide information to the public as follows:

h-1. The commissioner shall place marks on structures to show the depth of inundation during the regional flood.

h-2. The commissioner shall ensure that all floodplain maps, engineering data and regulations shall be available to the public and widely distributed.

h-3. The commissioner shall, upon request, provide floodplain zoning district information to persons preparing real estate transfer documents.

**16. GOVERNMENT AGENCIES REGULATED.** Unless specifically exempted by law, the city of Milwaukee, the county of Milwaukee, the Milwaukee board of school directors, the housing authority and the redevelopment authority shall comply with all applicable provisions of this section and obtain all necessary permits. State agencies shall be required to comply if s. 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin department of transportation shall be exempt when s. 30.2022, Wis. Stats., applies.

**17. REMOVAL OF LANDS FROM FLOODPLAIN.** a. Compliance with the provisions of this section shall not be grounds for removing land from the floodplain unless:

a-1. Such land is filled at least 2 feet above the regional or base flood elevation.

a-2. The fill is contiguous to land outside the floodplain.

a-3. The map is amended pursuant to sub. 7-b.

b. Satisfaction of the requirements of par. a does not eliminate the requirement for mandatory purchase of flood insurance. The property owner shall contact the federal emergency management agency to request a letter of map change.

**18. ENFORCEMENT AND PENALTIES.** The commissioner of neighborhood services shall be authorized to enforce the provisions of this section. The commissioner shall, on his or her own initiative or on complaint or referral, proceed to the remedy of violations in accordance with the provisions of s. 295-309. Any person, firm or corporation that owns, controls or manages any premises on which has been placed or there exists anything in violation of this section, assists in the commission of any violation of this section, builds contrary to the plans or specifications submitted to and approved by the commissioner of city development or omits, neglects or refuses to do any act required by this section shall be subject to the penalties of s. 295-309-6, as appropriate.

**19. WARNING AND DISCLAIMER OF LIABILITY.** The flood protection standards in this section are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man-made or natural causes. The provisions of this section do not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor do the provisions of this section create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on those provisions.

**295-1013. Shoreland-Wetland Overlay Zone (WL). 1. PURPOSES.** The shoreland-wetland overlay zone, which includes all wetlands in the city that are 2 acres or more in area, as defined by the "FINAL" Wisconsin Wetland Inventory Maps dated March 29, 1989, is intended to:

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- a. Maintain the storm and flood water storage capacity of wetlands.
- b. Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters.
- c. Protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other aquatic habitat.
- d. Prohibit certain uses detrimental to shoreland-wetland areas.
- e. Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling and other earth moving activities.

**2. PROCEDURES.** a. Creation. Creation of a shoreland-wetland overlay zone shall be by amendment to the zoning map, pursuant to s. 295-307.

b. Zoning Map Designator. Each shoreland-wetland overlay zone shall be shown on the zoning map by a "WL" designator and an appropriate number.

**3. STANDARDS.** a. Permitted Uses. In a shoreland-wetland overlay zone, the following are permitted uses, provided that no wetland alteration occurs:

- a-1. Hiking.
- a-2. Fishing.
- a-3. Swimming.
- a-4. Boating.
- b. Special Uses. The following are special uses in the shoreland-wetland overlay zone:
  - b-1. Harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops.
  - b-2. Silviculture, including the planting, thinning and harvesting of timber, and limited temporary water level stabilization measures as necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected.
  - b-3. Raising of minnows or other wetland or aquatic animals.
  - b-4. Maintenance and repair of existing drainage systems to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is otherwise permissible and that dredged spoil is placed on existing spoil banks where possible.
  - b-5. Construction and maintenance of piers, docks, walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance.
  - b-6. Installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zone provided that such installation or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the shoreland-wetland listed in sub. 1.
  - b-7. Maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
  - b-8. Construction and maintenance of roads as necessary to provide continuity in the city's street system, essential utility and emergency services, or access to uses listed under this subsection, provided that:
    - b-8-a. The road cannot, as a practical matter, be located outside the wetland.
    - b-8-b. The road is designed and constructed to minimize adverse impacts upon the natural functions of the shoreland-wetland listed in sub. 1.
    - b-8-c. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use.
    - b-8-d. Road construction activities are carried out only in the immediate area of the roadbed.
    - b-8-e. Any wetland alteration shall be only that necessary to accommodate construction or maintenance of the road.
  - b-9. Construction and maintenance of a nonresidential building provided that:
    - b-9-a. The building cannot, as a practical matter, be located outside the wetland.
    - b-9-b. The building does not exceed 500 square feet in floor area.
    - b-9-c. Only limited filling and excavating necessary to provide structural support for the building shall be allowed.

b-10. Establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:

b-10-a. Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures shall be allowed.

b-10-b. Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms and wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.

b-11. Construction and maintenance of electric and telephone transmission lines, water and gas distribution lines and sewage collection lines and related facilities and the construction and maintenance of railroad lines, provided that:

b-11-a. These utility facilities and lines cannot, as a practical matter, be located outside the wetland.

b-11-b. Only limited filling or excavating necessary for construction or maintenance shall be allowed.

b-11-c. Construction or maintenance shall be performed in a manner designed to minimize adverse impacts upon the natural functions of the shoreland-wetland listed in sub. 1.

c. Use of Boathouses and Houseboats. The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters is prohibited.

d. Exemptions. d-1. Filled Wetlands Exempted. Wetlands filled prior to June 16, 1992, in a manner that affects their wetland characteristics to the extent that the area can no longer be defined as wetlands shall not be subject to the provisions of this section.

d-2. Wetlands Landward Of A Bulkhead Line Exempted. Wetlands located between the original ordinary high water mark and a bulkhead line established prior to May 7, 1982, under s. 30.11, Wis. Stats., and the Milwaukee harbor as defined in s. 118-80, shall not be subject to the provisions of this section.

**295-1015. Lakefront Overlay Zone (LF).** 1. PURPOSE. The lakefront overlay zone is established to accommodate a wide variety of public and quasi-public facilities providing recreational and cultural opportunities and supporting services that require lakefront sites.

2. PROCEDURES. a. Creation. Creation of a lakefront overlay zone shall be by amendment to the zoning map, pursuant to s. 295-307.

b. Zoning Map Designator. The lakefront overlay zone shall be shown on the zoning map with an "LF" designator.

c. Amendment of Zone Boundaries. Amendment of the boundaries of a lakefront overlay zone shall only be initiated by a motion of the common council or by a petition submitted to the common council and signed by owners of 50% or more of the area of all land included in the zone. Following passage of the common council motion or the department's receipt of a petition, the proposed boundary amendment shall be considered by the plan commission and common council in accordance with the zoning map amendment procedure in s. 295-307-3.

3. STANDARDS. a. Use Table. Table 295-1015-3-a indicates the use classifications for various land uses in the lakefront overlay zone. These use classifications replace the classifications of the underlying zoning district. Any use not listed in the table is a prohibited use in the lakefront overlay zone. The following are the use classifications indicated in Table 295-1015-3-a:

a-1. "Y" indicates a permitted use. This use is permitted as a matter of right subject to all performance standards.

a-2. "L" indicates a limited use. This use is permitted only when the use meets the standards of subdiv. a-2. If the use cannot meet these standards, it shall be permitted only upon board approval of a special use permit pursuant to s. 295-311-2, unless otherwise prohibited by par. b.

a-3. "S" indicates a special use. This use is permitted only if the board approves a special use permit pursuant to s. 295-311-2.

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Table 295-1015-3-a LAKEFRONT OVERLAY ZONE USE TABLE	
Y=Permitted Use      L=Limited Use      S=Special Use	Zoning District
Uses	LF
<b>EDUCATIONAL USES</b>	
Day care center	L
<b>COMMUNITY-SERVING USES</b>	
Library	Y
Cultural institution	Y
Community center	L
<b>COMMERCIAL AND OFFICE USES</b>	
General Office	S
Government office	Y
Retail establishment, general	L
<b>MOTOR VEHICLE USES</b>	
Parking lot, principal use	S
Parking lot, accessory use	Y
Parking structure, principal use	S
Parking structure, accessory use	S
<b>ACCOMMODATION AND FOOD SERVICE USES</b>	
Bed and breakfast	S
Tavern	S
Assembly hall	L
Restaurant, sit-down	L
Restaurant, fast-food/carry-out	L
<b>ENTERTAINMENT AND RECREATION USES</b>	
Park or playground	Y
Festival grounds	Y
Recreation facility, indoor	S
Recreation facility, outdoor	S
Theater	S
Marina	L
<b>TRANSPORTATION USES</b>	
Passenger terminal	Y
Helicopter landing facility	S
Ship terminal or docking facility	S
<b>UTILITY AND PUBLIC SERVICE USES</b>	
Transmission tower	L
Water treatment plant	Y
Substation/distribution equipment, indoor	S
Substation/distribution equipment, outdoor	L
<b>TEMPORARY USES</b>	
Seasonal market	L
Live entertainment special event	L

b. Limited Use Standards. b-1. Day Care Center. b-1-a. The use is located in a building containing a library or cultural institution as a principal use.

b-1-b. The use shall not operate between the hours of 10 p.m. and 6 a.m.

b-1-c. For any day care center other than an adult day care center, the facility shall not be located within 500 feet of an adult retail establishment or an adult entertainment establishment.

b-1-d. For any day care center other than an adult day care center, if the day care center is located in a building containing a library or cultural institution as a principal use, the facility shall not be located within 300 feet of a premises for which the common council has granted any of the alcohol beverage licenses identified in s. 90-4-1, 2 and 5 and such license is currently valid. This standard shall not apply to a day care center in operation on February 3, 2007.

b-2. Community Center or Assembly Hall. The facility shall be owned and operated by a governmental agency or entity.

b-3. General Retail Establishment, Sit-down Restaurant or Fast-food/Carry-out Restaurant.

b-3-a. The area devoted to the use shall not exceed 1,000 square feet.

b-3-b. The use shall be located in a structure owned by a governmental agency or entity.

b-3-c. The use shall be ancillary to park and recreational uses.

b-4. Marina. Indoor sales or storage of boats shall not be permitted.

b-5. Transmission Tower. b-5-a. The tower shall comply with the applicable provisions of s. 295-413.

b-5-b. The tower shall not exceed the height limit of the underlying zoning district.

b-6. Substation/distribution Equipment, Outdoor. All structures associated with the use shall be screened with type "G" landscaping, as described in s. 295-405.

b-7. Seasonal Market. b-7-a. The activity shall be located on property owned or leased by the operator of the seasonal market. Alternatively, the market operator may furnish the department with written evidence that the property owner has given the operator permission to use the premises for a seasonal market. A specific certificate of occupancy shall not be required for a seasonal market meeting the requirements of this paragraph.

b-7-b. If flowers, plants, Wisconsin-grown farm products or Christmas trees constitute at least 75% of the merchandise offered for sale, the activity shall be limited to not more than 90 days in one calendar year. Otherwise, the duration of the seasonal market shall be limited to not more than 14 days in one calendar year.

b-7-c. The activity shall not produce glare, spill light or noise in violation of the provisions of ch. 80.

b-7-d. Signage shall be limited to not more than 2 signs and a total display area of 16 square feet for all signs combined.

b-7-e. Sales shall not occur between the hours of 9 p.m. and 7 a.m.

b-7-f. The site shall be restored to its previous condition following termination of the market operation.

b-8. Live Entertainment Special Event. b-8-a. If the event is to occur on the public right-of-way or other public property, the person, firm or organization coordinating the event shall obtain a special event permit in accordance with s. 105-55.5.

b-8-b. The person, firm or organization coordinating the event shall obtain a festival permit, if required to do so by s. 261-103.

b-8-c. The event shall be located on property owned or leased by the person, firm or organization that is coordinating it. Alternatively, such person, firm or organization may furnish the department with written evidence that the property owner has given the operator permission to use the premises for a live entertainment special event.

c. Design Standards. c-1. Purpose. The objective of the design standards of this paragraph is to reduce or eliminate potential adverse effects and nuisances sometimes associated with the various uses found in this district, particularly as these uses impact surrounding residents and businesses. The standards set forth in this paragraph include the provision of setbacks and the use of screening/buffering techniques to limit the visibility of certain activities.

c-2. Principal Building Standards. All principal buildings shall have setbacks of at least 25 feet from all property lines, except along the front lot line, where the required setback shall be the average setback as determined in accordance with the provisions of s. 295-505-2-b-4.

c-3. Accessory Building Standards. Accessory buildings shall have setbacks of at least 25 feet from all property lines.

c-4. Site Standards. c-4-a. Parking. Off-street parking spaces shall be provided in accordance with the requirements of s. 295-403-2 and shall meet the design standards of s. 295-403-3.

c-4-b. Dumpsters and Waste Storage. A dumpster or common waste storage facility visible from a public street or any real property that is not zoned industrial-light or industrial-heavy shall be screened with type "G" landscaping, as described in s. 295-405.

c-4-c. Loading Docks. Where loading for more than 2 truck bays is in a yard facing and visible from a public street or any real property that is not zoned industrial-light or industrial-heavy, the loading area shall

be screened with type "G" landscaping, as described in s. 295-405. These standards may be waived in whole or in part, or compliance with them may be delayed in whole or in part, if visibility of the loading docks is limited by changes of grade, natural features, elevated roadways, existing buildings or similar obstructions.

c-4-d. Fences. Fences shall comply with the fence regulations for residential zoning districts, as specified in s. 295-505-4-f.

c-4-e. Signs, Generally. Table 295-1015-3-c-4-e contains the regulations for on-premise and off-premise signs in the lakefront overlay zone. General regulations applicable to all signs can be found in s. 295-407.

c-4-f. Temporary Signs. A sign pertaining to the construction of a building or the sale or lease of vacant land shall be permitted in the lakefront overlay zone provided it does not exceed 36 square feet. A sign erected and maintained on a lot to advertise the leasing, rental or sale of a building or other improved real estate shall be permitted in the lakefront overlay zone provided it does not exceed 6 square feet.

c-4-g. Standards for Multiple Freestanding Signs. Where more than one freestanding sign is permitted on a site, no 2 freestanding signs may have display areas that are oriented to the same street. In addition, the signs shall be located as far apart as possibly practicable or be separated by a building.

c-4-h. Combination type A and B Signs. Signs that contain elements of both type A and type B signs shall be permitted as long as the size of each element does not exceed its prorated share of total display area, in accordance with s. 295-205-5-d.

c-5. Metal Building Walls. The use of corrugated metal, a metal panel-and-batten system or any other pre-engineered metal building technology on any front façade or street façade located within 100 feet of a street shall be prohibited for any new building construction, addition, or substantial improvement as of November 20, 2004. This provision shall not preclude the use of metal panels or siding in detailing soffits, fascia, dormers, coping, cupolas and similar architectural features, provided the metal materials cover not more than 15% of the total façade, nor shall it preclude the use of metal building walls on additions to existing buildings constructed of similar materials.

**295-1015-3-c-4-e Zoning**

<b>Table 295-1015-3-c-4-e</b> <b>SIGN REGULATIONS FOR THE LAKEFRONT OVERLAY ZONE</b>	
	LF
<i>Freestanding Signs (only monument signs permitted)</i>	
Maximum number	no limit
Type "A" max. display area (sq. ft.)	40; special use permit required for larger than 40 sq. ft.
Type "B" max. display area (sq. ft.)	special use permit required for sign up to 32 sq. ft.; prohibited if larger than 32 sq. ft.
Maximum height	14 ft.
<i>Wall Signs (permitted)</i>	
Maximum number	no limit
Type "A" max. display area (sq. ft.)	no limit
Type "B" max. display area (sq. ft.)	50
<i>Projecting Signs (permitted)</i>	
Maximum number	no limit
Type "A" max. display area (sq. ft.)	no limit
Type "B" max. display area (sq. ft.)	24
<i>Awning Signs (type "A" permitted only)</i>	
Maximum number	no limit
Type "A" max. display area (sq. ft.)	no limit
<i>Hood Signs (permitted)</i>	
Maximum number	no limit
Type "A" max. display area (sq. ft.)	no limit
Type "B" max. display area (sq. ft.)	24
<i>Canopy Signs (permitted)</i>	
Maximum number	no limit
Type "A" max. display area (sq. ft.)	no limit
Type "B" max. display area (sq. ft.)	24
<i>Roof Signs (permitted)</i>	
Type "A" max. display area (sq. ft.)	no limit
Type "B" max. display area (sq. ft.)	50
<i>Off-premise Signs (not permitted)</i>	

**295-1017. Master Sign Program Overlay Zone (MSP).** 1. **PURPOSE.** This overlay zone allows the use of different sign regulations in place of or in addition to the sign regulations of the base zoning district for the purpose of allowing overall flexibility in the application of sign regulations for larger, multi-tenant sites that may front on more than one street or have large street frontages, yet encouraging consistency of sign design within the overlay zone.

2. **PROCEDURES.** a. **Creation.** Creation of a master sign program overlay zone shall be by amendment to the zoning map, pursuant to s. 295-307.

b. **Zoning Map Designator.** Each master sign program overlay zone shall be shown on the zoning map by an "MSP" designator and an appropriate number.

c. **Minimum Site Size.** The minimum site size for application of the master sign program overlay zone shall be 1.5 acres.

d. **Limitation on Permit Issuance.** Permits may be issued for signs in an area covered by an approved master sign program only if such signs conform to the standards of the program.

e. **Standards.** Along with the application for creation of a master sign program overlay zone, the applicant shall submit a master sign program for review and approval by the common council at the same time the map amendment is adopted. The master sign program shall include the following:

e-1. A site plan, drawn to scale, delineating the area proposed for inclusion within the master sign program and the general location of all proposed signs.

e-2. Scale drawings or sketches indicating the location and characteristics of all existing signs.

e-3. Scale drawings or sketches indicating exterior surface details of all buildings on the site on which wall signs, directory signs, freestanding signs or projecting signs are proposed.

e-4. A graphic and written program specifying sign standards, including color, size, construction details, illumination and placement.

e-5. A statement of the reasons for any requested deviations from the standards or regulations of the base zoning district.

f. **Allowable Deviations.** A master sign program may include more than one freestanding sign per site or other deviations from the standards of this section, such as but not limited to the maximum size or height of individual signs, provided the master sign program meets the intent of the provisions of this section.

g. **Required Findings.** No master sign program shall be approved unless the commission finds all of the following to be true:

g-1. The design quality of the site and surrounding area will be greater with the master sign program than with application of the regulations and standards of this chapter.

g-2. The proposed signs are compatible with the style or character of other existing or proposed improvements on the site and with one another.

g-3. The proposed sign program will accommodate the signage needs of both current and future occupants of the site.

g-4. The site contains at least 1.5 acres, has multiple tenants and either fronts on more than one street or has a large street frontage.

g-5. The proposed master sign program meets the intent of the sign standards of the base zoning district.

h. **Conditions of Approval.** In approving a master sign program, the commission may impose, upon the applicant and the site to which the program would apply, any reasonable conditions necessary to carry out the intent of this subsection while still providing each sign user with opportunities for effective identification and communication.

i. **Amendment of Zone Boundaries.** Amendment of the boundaries of a master sign program overlay zone shall only be initiated by a motion of the common council or by a petition submitted to the common council and signed by owners of 50% or more of the area of all land included in the zone. Following passage of the common council motion or the department's receipt of a petition, the proposed boundary amendment shall be considered by the plan commission and common council in accordance with the zoning map amendment procedure in s. 295-307-3.

"For legislative history of this chapter, contact the Legislative Reference Bureau."

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